

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**Monica Jordan**

**Louis Jordan**

**Plaintiff(s)**

**v.**

**Washington Mutual Bank**

**Defendant(s)**

**Civil Action Number: H02CV1465**

**JOINT STATUS REPORT**

The parties, by their respective undersigned counsel, in an effort to be helpful to the Court in anticipation of the Status Conference scheduled for April 8, 2003, hereby report the current status of the case. Counsel are pleased to advise the Court that they have established an extraordinarily good, collegial and professional relationship, which has resulted in many meetings and conversations, the free exchange of information, the voluntary production of hundreds of documents, and extensive discussion of the merits, legal issues and value of the case.

a) Subject to the following noted exceptions, discovery has been completed. First, plaintiffs have requested that defendants agree to the substitute designation of an expert on damages and to the additional designation of an expert on a question relating to the availability of certain land use approvals. Defendant has not objected to the designation of a substitute for damages; provided, that defendant has the right to take the newly designated expert's deposition. Defendant objects to the designation of the new expert. Additionally, the designation of one of plaintiffs' experts, one relating to the value of certain real estate, was scheduled but deferred and, without prejudice to future scheduling of a pre-trial conference and trial date, the parties have agreed to complete the taking of that deposition in the near future if necessary. Finally, the brief

deposition of one other fact witness, Mrs. Myers, the grandmother of Mrs. Jordan, was scheduled but deferred and needs to be completed.

b) The parties are in the final stages of entering into a Stipulation of Facts, which will be presented to the Court. This Stipulation will shorten trial significantly and will make unnecessary the deposition and trial testimony of several bank employees based in California.

c) Defendant has filed a Motion for Summary Judgment or, Alternatively, for Partial Summary Judgment. Plaintiffs will file a Motion for an Extension of Time to Answer the Motion for Summary Judgment. Plaintiffs' counsel has indicated he will request 45 days. Defendant's counsel has indicated that he will not oppose an extension that would permit plaintiffs' counsel a total of 30 days from service of the Motion for Summary Judgment for plaintiffs' counsel to file his opposition.

d) Plaintiffs' counsel has indicated he will file a Motion for Leave of Court to file an Amended Complaint to: (1) include what plaintiffs will allege as the continuing and extremely damaging wrong being committed by the defendant as recently as March 2003 when it, incredibly, again erroneously reported that the plaintiffs made their mortgage payment 30 days in arrears, (2) that the Maryland Consumer Protection Act, the Financial Institutions Article of the Annotated Code of Maryland and/or other statutory and common law causes of action provide greater protection than the Fair Credit Reporting Act and the Electronic Fund Transfer Act, (3) that defendant has violated the Fair Credit Reporting Act by failing to report to the national credit reporting agencies that the plaintiffs have disputed that their mortgage loan has been paid in arrears, and (4) to possibly include other amendments. Defendant's counsel has indicated that defendant will oppose this motion for leave to amend and denies plaintiffs' allegations in connection with the putative amendment.

e) The parties want to settle this case. Plaintiffs' counsel submitted a detailed and lengthy settlement proposal on November 18, 2002. Defendant has responded with what plaintiffs regard as an inadequate response. The parties agree that the prompt intervention of a neutral would assist them in settlement efforts. Accordingly, the parties jointly request that this case be referred to a Magistrate Judge at the earliest possible time for mediation under Local Rule 607.

Defendant requests, and plaintiffs consent, that an authorized representative of the defendant be permitted to participate in the mediation conferences by telephone, as defendant's principal offices and counsel with ultimate authority to settle the case are located in Washington State. By this request, the defendant does not wish the referral to a Magistrate Judge for mediation to delay the Court's ruling on the pending Motion for Summary Judgment or, Alternatively, for Partial Summary Judgment, and plaintiffs do not wish the referral to delay the trial, if the case is not resolved by motion or settlement.

f) While the parties have requested that a Magistrate Judge conduct mediation and settlement discussions, they do not consent to a referral to a Magistrate Judge for any other proceedings.

g) The case is to be tried before a jury. Plaintiffs' counsel estimates that the case will take 5 or more days for trial. Defendant's counsel reserves any estimate of the length of trial at this time.

h) Plaintiffs' counsel wishes to raise one additional matter for the Court's attention. Plaintiffs' object to paying defendant's expert witness on damage, Bruce Dubinsky, at the rate of \$400.00 per hour for his time in deposition and travel, and ask that the Court establish a reasonable hourly fee that they should pay Mr. Dubinsky. Defendant objects to this request because Mr. Dubinsky's hourly rate was known to plaintiffs' and their counsel prior to the taking

of Mr. Dubinsky's deposition, they agreed to reimburse defendant for Mr. Dubinsky's deposition fee, and this agreement was reconfirmed on the record at the outset of the deposition.

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